

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-3003

September Term 2008

1:07-cr-00153-TFH-4

Filed On: March 24, 2009

United States of America,

Appellee

v.

Herbert F. Young,

Appellant

## ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**BEFORE:** Ginsburg, Rogers, and Garland, Circuit Judges

### J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and the memoranda filed by the parties. The court has determined that the issues presented occasion no need for an opinion. See Fed. R. App. P. 36; D.C. Cir. Rule 36(b). It is

**ORDERED AND ADJUDGED** that the district court's order denying reconsideration of pretrial detention be affirmed. The district court did not clearly err in concluding that no condition or combination of conditions would reasonably assure the safety of the community in the event of appellant's release. See United States v. Smith, 79 F.3d 1208, 1211 (D.C. Cir. 1996) (per curiam). Appellant failed to rebut the presumption that he would pose a danger to the community if released. See 18 U.S.C. § 3142(e)(3) (establishing a rebuttable presumption of danger to the community when "there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act"). This judgment is without prejudice to any action the district court may take with respect to the motion for release now pending before it.

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Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P 41(b); D.C. Cir. Rule 41.

## **Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk